

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re application of:

Madaline Chirica, et al.

Application No.: 10/667,290

Filed: September 18, 2003

For: DCRS5 POLYPEPTIDES
(as amended)

Examiner: J. Seharaseyon

Art Unit: 1647

Conf. No.: 8667

MAIL STOP: Patent Extension
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

**APPLICATION FOR PATENT TERM ADJUSTMENT INCLUDING REQUEST FOR
RECONSIDERATION OF PATENT TERM ADJUSTMENT INDICATED IN NOTICE OF
ALLOWANCE (37 C.F.R. § 1.705)(b)**

Sir:

1. This is a request for reconsideration of the patent term adjustment of 543 days indicated in the Determination of Patent Term Adjustment Under 35 U.S.C. §154(b) that was attached to the Notice of Allowance mailed on October 3, 2007, in the present case. It is respectfully submitted that Applicants be afforded a patent term adjustment of **713 days**.

2. The issue fee has not yet been paid.

3. Applicants submit herewith a "Statement of the Correct Patent Term Adjustment: Grounds Under 37 C.F.R. § 1.702 For the Adjustment (37 C.F.R. § 1.705 (b)(2)(i) to (iv))".

4. Applicants submitted a previous Application for Patent Term Adjustment on December 20, 2007, which was held in abeyance in a Notice dated February 20, 2008 in light of Applicants' Petition to Withdraw from Issue dated January 31, 2008. Applicants include herewith a copy of that Notice, and hereby request that that the \$200 fee set forth in 37 C.F.R. 1.18(e), which was paid on December 20, 2007, be applied to the current Application for Patent Term Adjustment. Any additional fees may be charged to DNAX Deposit Account No. 04-1239. Any refund in fees may be credited to the same Deposit Account.

Respectfully submitted,

Date: 6 June 2008

By: /Gregory R. Bellomy/
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OFFICE OF PETITIONS

In re Application of :
Chirica et al. : ON APPLICATION
Application No. 10/667,290 : FOR
Filed: September 18, 2003 : PATENT TERM ADJUSTMENT
Attorney Docket No. DX01074B1 :

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT INCLUDING REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT INDICATED IN NOTICE OF ALLOWANCE (37 C.F.R. §1.705)(b)) December 20, 2007. Applicants request correction of the patent term adjustment indicated in the Notice of Allowance mailed October 3, 2007 from five hundred forty-three (543) days to seven hundred thirteen (713) days.

On October 3, 2007, the Office mailed a Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 543 days. On December 20, 2007, applicants filed the instant paper.

However, prior to a decision on the application for patent term adjustment being rendered, on January 31, 2008, applicant filed a petition to withdraw from issue along with a request for continued examination (RCE). By decision mailed February 4, 2008, the withdrawal from issue was granted. Prosecution was reopened.

In view thereof, a decision is being **held in abeyance** until after the mailing of any new Notice of Allowance and the filing (or resubmission) of any application for patent term adjustment under 37 CFR 1.705(b). A new determination of patent term

adjustment will accompany any new Notice of Allowance and will include any further adjustments or reductions accrued to date. Applicant must submit a timely application for patent term adjustment in response to any new Notice of Allowance. An application for patent term adjustment under 37 CFR 1.705(b) is properly filed after the mailing of the Notice of Allowance on which the application issues and prior to payment of the issue fee (or a request for reapplication of the issue fee) in response to that Notice. A copy of this decision should accompany the application for patent term adjustment, along with a request to apply the fee set forth in 37 CFR 1.18(e) paid on December 20, 2007.

Technology Center AU 1647 has been advised of this decision. The application is, thereby, forwarded to the Technology Center for consideration of the RCE by the examiner.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3219.

A handwritten signature in black ink, appearing to read "Nancy Johnson", with a stylized, flowing script.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions